

AUG 01 2008

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MARIA MARTA LOPEZ,

Petitioner,

v.

MICHAEL B. MUKASEY, Attorney  
General,

Respondent.

No. 04-75144

Agency No. A79-562-301

MEMORANDUM<sup>\*</sup>

On Petition for Review of an Order of the  
Board of Immigration Appeals

Submitted July 22, 2008<sup>\*\*</sup>

Before: B. FLETCHER, THOMAS, and WARDLAW, Circuit Judges.

Maria Marta Lopez, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals' ("BIA") order summarily affirming an immigration judge's ("IJ") decision denying her application for cancellation of

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<sup>\*</sup> This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

<sup>\*\*</sup> The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

removal and her request for voluntary departure. We have jurisdiction under 8 U.S.C. § 1252, and we grant the petition for review.

Lopez contends that the IJ violated due process by denying her a continuance, thereby violating her right to counsel and preventing her from presenting new evidence. Although Lopez raised these issues in her Notice of Appeal to the BIA, the BIA improperly failed to address them. *See Montes-Lopez v. Gonzales*, 486 F.3d 1163, 1165 (9th Cir. 2007) (“[T]he BIA errs when it fails on appeal to consider and decide claims that the IJ proceedings suffered from procedural irregularity.”). We therefore remand for further proceedings. *See id.*

In light of our disposition, we need not address Lopez’s remaining contentions.

**PETITION FOR REVIEW GRANTED; REMANDED.**